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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO	CONFIRMATION NO
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EXAMINER
ST CYR, DANIEL

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 03/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.	Applicant(s)
09/021,370	HASHIMOTO, KEN
Examiner	**Art Unit**
Daniel St Cyr	2876

Office Action Summary

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).
Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 February 2002*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
4)☐ Interview Summary (PTO-413) Paper No(s) _____
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other:

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/15/01 has been entered.

Claim Rejections - 35 U.S.C. § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3, 5-10, 12-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al, US Patent No. 5,522,509 in view of Tuttle et al, US Patent No. 6,101,375.

Shimamura et al discloses an apparatus and a tableware sorting apparatus comprising: a reading means 23 for reading data in a non-contact state from a plurality data carriers 12 attached to a plurality of container 11 of dishes selected by the customers; a calculating means 21 for calculating a charge for the one dish; a writing means is inherently included for writing the data in the data carrier in order for the system to operate. (See col. 4, lines 1-27); antennas 31,32, serve as input means for inputting data to be used to calculate the charge. (See col. 4, lines 39-47); the data carrier 12 is attached to the bottom 11a of the container 11, and said reading means reads the data collectively from the data carrier of the container placed on the tray 24. (See col.

4, lines 1-27): said reading means reads price data, the kind, of each dish from the carrier and said calculating means adds up the price of each dish and calculates the charge for the one dish and outputs the kind of dish in a display. A register or a computer for storing the kind and the price, of each dish (see coll. 3, lines 24-27). (See col. 3, lines 35-52): one or more items of goods are arranged flatly so that the directions of attached data carriers is the same, and said reading means reads the data collectively from the data carriers of the one or more goods arranged flatly. (See figure 6; col. 4, lines 19-28). Shimamura et al fail to disclose or fairly suggest that the tag is a rewritable tag. However notice is taken that tags, such as read-only tags, dynamic tags, and read/write tags, are notoriously old and well known in the art for storing information. Therefore, it would have been obvious for a person of ordinary skill in the art to employ read/write tags into the system of Shimamura for the purpose of allowing a user to update the information, such as price change, in the tags.

Shimamura et al fail to disclose that the data carrier waits a pre-determined period before answering the inquiring, wherein the carrier includes a communication control logic.

Tuttle et al disclose methods and systems for gain adjustment in two-way communication systems wherein a reader must wait a predetermined time period before an RFID tag responds to an inquiry, the RFID tag is a transceiver tag which includes a microprocessor, control logic (see col. 2, line 36+).

In view of the Tuttle et al's teachings, it would have been obvious for an ordinary artisan at the time of the invention was made to employ the well-known transceiver tag as the carrier into the system Shimamura et al so that the system could provide more effective communication. Such modification would ensure optimum reliable communication between the carriers and the

reader. Furthermore, these types of communication techniques, such as tags system, smart cards system, etc., are common in the art for electronic communication. Therefore, it would have been an obvious extension as taught by Shimamura et al.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shimamura et al, as modified by Tuttle et al as applied to claim 2 above, and further in view of Ehrat, US Patent No. 3,836,755.

Shimamura et al as modified by Tuttle et al do not disclose or fairly suggest a measuring means for measuring the weight of the dish or drink.

Ehrat discloses a self-service shop wherein a measuring means 182 for measuring and detecting the weight of the goods (see col. 3, lines 43-53).

It would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate the measuring means of Ehrat into the system of Shimamura et al as modified by Tuttle et al for the purpose of monitoring the goods from the tray of the adjusting apparatus. Furthermore, having a measuring means into the system of Shimamura et al as modified by Tuttle et al would allow the system to sell goods according their weight wherein the adjusting apparatus would calculate the price of the item corresponding to its weight which would make the system more practical and more versatile. Therefore, it would have been an obvious expedient.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shepley, US Patent No. 5,478,989 in view of Tuttle et al, US patent No. 6,101,375.

Shepley discloses a nutritional information system for shoppers comprising: a reading means 29 for reading data in non-contact state from data carriers, such as bar code, attached to a

container of the dish or drink selected by the customer; the system calculates the nutritional information of the dish or drink selected by the customer, and displays the information. (See figures 3, 5; col. 7, lines 27-46). Shepley does not specifically disclose that the system displays the calorie of the dish or drink and the data carrier are rewritable. However, Official notice is taken that rewritable bar codes are notoriously old and well known in the art for writing information. Therefore, it would have been obvious to employ rewritable bar codes on the items in order to allow price updating. With regard to displaying the calories, Shepley discloses a nutritional information system for aiding customers with their purchase. Therefore, it would have been obvious for a person of ordinary skill in the art to provide customers with the ability to obtain nutritional information, including calorie information, of the dish or drink in order to allow customers to make better food choices according to specific diets which contain a predetermined amount of calories. Therefore, it would have been an obvious expedient.

Shepley fails to disclose that the data carrier includes a communication control logic.

Tuttle et al disclose methods and systems for gain adjustment in two-way communication systems wherein a reader must wait a predetermined time period before an RFID tag responds to an inquiry, the RFID tag is a transceiver tag which includes a microprocessor, control logic (see col. 2, line 36+).

In view of the Tuttle et al's teachings, it would have been obvious for an ordinary artisan at the time of the invention was made to employ the well-known transceiver tag as the carrier into the system Shepley so that the system could provide more effective communication. Such modification would ensure optimum reliable communication between the carriers and the reader. Furthermore, these types of communication techniques, such as tags system, smart cards system,

etc., are common in the art for electronic communication. Therefore, it would have been an obvious extension as taught by Shepley.

Response to Arguments

6. Applicant's arguments filed 2-15-02 have been fully considered but they are not persuasive. (See the examiner remarks).

REMARKS:

In response to the applicant's argument that the carrier does not include a control logic, the examiner respectfully disagrees. Tuttle discloses a transceiver tag as the carrier, wherein transceiver tags includes microprocessor means for controlling input/output communication. The applicant's argument is not persuasive. Refer to the rejection above.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr
Examiner
Art Unit 2876

DS

March 8, 2002